

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/155,642 10/02/98 LINDAHL

A 003300-506

021839 HM12/1221  
BURNS DOANE SWECKER & MATHIS  
P O BOX 1404  
ALEXANDRIA VA 22313-1404

EXAMINER

MCCARTHY III, T

ART UNIT

PAPER NUMBER

1618

DATE MAILED:

12/21/99

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No. <b>09/155,642</b>	Applicant(s) <b>Lindahl et al.</b>
	Examiner <b>McCarthy, T.C.</b>	Group Art Unit <b>1618</b>

Responsive to communication(s) filed on Oct 2, 1998.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire one month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1-54 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) \_\_\_\_\_ is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims 1-54 are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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## DETAILED ACTION

### *Election/Restrictions*

1. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Solid compositions.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

2. The claims are deemed to correspond to the species listed above in the following manner:

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virtually all of the claims. In their current form, the claims have been amended so many times that it is exceedingly difficult to keep track of which claims are dependent on the others, which claims still stand, etc. Applicant is therefore directed to the corresponding claims as follows: any claim that limits the composition to a percentage of a particular compound, or that requires one to choose from a list of possible compounds that can comprise the composition is a species claim that describes a number of fundamentally different special technical features (see below). Furthermore, the examiner requests that the applicant fax or send in a courtesy copy of all the claims as they currently stand - in their most current amended form - such that a thorough search of the subject matter can more readily be conducted for the applicant. This would be greatly appreciated and would undoubtedly help to speed prosecution of the immediate case.

The following claim(s) are generic: any independent claims.

3. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: each of the compositions disclosed in the claims is comprised of compounds that have unique/different structures, and/or that define percentage use of certain compounds such that art reading on one composition would not read on the others.

Therefore, these multiple compositions are fundamentally different - each one from the others - and cannot represent a single special technical feature.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently

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named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to T.C. McCarthy whose telephone number is (703) 308-5316. The examiner can normally be reached on [redacted] from [redacted] to [redacted].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Adams, can be reached on (703) 308-0570. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7924.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

  
KEITH D. MACMILLAN  
PRIMARY EXAMINER

December 16, 1999

T.C. McCarthy